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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,847	06/04/2001	Yutaka Hasegawa	2552-000003	4834

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EXAMINER

CHEUNG, MARY DA ZHI WANG

ART UNIT PAPER NUMBER

3621

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/873,847

Applicant(s)

HASEGAWA, YUTAKA

Examiner

Mary Cheung

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Status of the Claims

1. This action is in response to the RCE filed on September 3, 2004. Claims 1 and 4-6 are pending. Claim 1 is amended. Claims 2-3 are canceled.

Response to Arguments

2. Applicant's arguments filed September 3, 2004 have been fully considered but they are not persuasive.

Applicant argues that the cited prior art do not teach the media contents each correspond to one of a plurality of usage grades. The applicant emphasizes that the plurality of grades do not equal to parts. Examiner respectfully disagrees. First, the applicant does not give an explicit definition of the meaning "grade" although the applicant gives some examples of "grade". Secondly, In page 5 line 19 through page 6 line 2 of the specification, it recites "The highest grade 1 contains all parts A, B and C, the next highest grade 2 contains parts A and B, and the lowest grade 3 contains only part A". This citation contradicts the applicant's argument that the plurality of grades do not equal to parts. Thirdly, Sako (U. S. Patent Application Publication Number: US 2002/0128936 A1) teaches the media contents each correspond to one of a plurality of usage grade (see Figs. 7A-7C, 10).

Furthermore, applicant argues that the cited prior art do not teach charging an amount of money corresponding to the difference. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., charging the difference between the upper

Art Unit: 3621

grade and the lower grade) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sako et al., U. S. Patent Application Publication Number: US 2002/0128936 A1 in view of Shah-Nazaroff et al., U. S. Patent 6,157,377.

As to claim 1, Sako teaches a restriction apparatus comprising:

a) A memory that stores content consisting of a plurality of related parts adapted to be combined to express said content as a plurality of selectable grades (*paragraphs 40-48 as shown on pages 3-4 and Figs. 7A-7C, 10; specifically, "a plurality of selectable grades" corresponds to the plurality of selectable qualities in Sako's teaching*) and wherein at least some of said parts having an associated restriction that inhibits that associated part from being combined to express said content (*paragraph 41 as show on page 3; specifically, "an associated restriction that inhibits..." corresponds to the lower quality of the content in Sako's*

teaching), wherein said memory further stores a transmission record of the data to said client (Fig. 6);

b) A first receiver that receives a first request of a client for transmission of the content (right column lines 3-15 of page 4 and Fig. 6);

c) A first transmitter that transmits said content to said client upon said first request (Figs. 3, 8);

d) A charging device that charges said client for client, wherein said charging device charges client first amount money (Figs. 7A-10).

Sako does not specifically teach a plurality of restriction removing data, each corresponding to one of said parts and that functions to permit that part to be combined, to thereby select which of said plurality of grades is expressed, and a second receiver that receives a second request of said client for transmission of at least one of the restriction removing data, and a second transmitter that transmits the restriction removing data to said client upon said second request. However, these matters are taught by Shah-Nazaroff as a plurality of upgrading data (restriction removing data), each corresponding to one of the parts that related to the content, and a receiver that receives a request from the client of upgrading the content, and a transmitter that transmits the upgrading data upon the upgrading request (abstract and Figs. 3-4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to the teaching of Sako to include the upgrading apparatus as taught by Shah-Nazaroff because this would allow the client to keep on updating his or her possession (i.e. music, software) as needed by simply request an upgrade.

Art Unit: 3621

Sako teaches said charging device charges client first amount money as discussed above. Sako does not specifically teach charging the client a second amount money which is lower than the first amount money when at least one of the upgrading data has already transmitted to said client. It would have been obvious to one of ordinary skill in the art to charge lower amount money to the client if the transmitted data is for upgrading the existed data because this would promote faster sale of the data by providing the client with a cheaper price for upgrades rather than an expensive price for purchasing the entire new data.

Sako teaches storing a transmission record of the data to said client as discussed above. Sako does not specifically teach storing a transmission record of upgrading data (restriction removing data) to said client. However, Shah-Nazaroff teaches this matter (Figs. 3-4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the teachings of Sako to include the feature of storing the record of upgrading data so that the billing information can be better tracked.

Claims 4-6 are parallel with the subject matter claimed in claim 1; thus they are rejected for the similar reasons as claim 1.

Art Unit: 3621

Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (703)-305-0084. The examiner can normally be reached on Monday – Thursday from 10:00 AM to 7:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(703) 872-9306 (Official Communications; including After Final
Communications labeled "BOX AF")

(703) 746-5619 (Draft Communications)

Hand delivered responses should be brought to Crystal Plaza Two, Room 1B03.

Mary Cheung
Patent Examiner
Art Unit 3621
December 7, 2004

